S.B. CRIMINAL MISC.BAIL APPLICATION NO.5512/2004.

Rajveer
Vs.
State

Date of order : 1/12/2004

HON'BLE MR.JUSTICE HARBANS LAL

Mr. DK Garg for the petitioner.
Mr. RP Kuldeep PP for the State.

I have heard learned counsel for petitioner Rajveer, learned Public Prosecutor for the State and have also perused the relevant documents placed before me.

Learned counsel for the petitioner has contended which could not be controverted by the learned PP that the alleged offences under Sections 402, 307 and 339 IPC and Section 11 of the Rajasthan Dacoity Affected Areas Act, 1986 in respect whereof challan has been filed against the petitioner are punishable with a term of imprisonment which may extend to 10 years and, therefore, the provisions of Section 167(2)(a)(i) of the Code of Criminal Procedure, 1973 would be applicable to this case. This Court in the case of **Malkhan and anr. Vs. State of Rajasthan : 2004(2) RCC 778** and the Apex Court in the case of **Rajeev Chaudhary Vs. State (N.C.T.) of Delhi : 2001(3) Criminal Law Journal 2941** has clearly held that where the alleged offence is punishable with a term of imprisonment which may less then 10 years, the provisions of Section 167(2)(a)(i) of the Code of Criminal Procedure, 1973 would be applicable if the charge sheet is not filed within the prescribed maximum period of 60 days from the date of arrest of the accused and as such he shall be entitled to bail as of right if he applies for and is willing to furnish the bail bonds as per the order of the court. Thus, the authorities clearly support the contention of the learned counsel.

In the instant case, the petitioner was arrested on 29/6/2004. The charge sheet was filed on 27/9/2004 i.e. after the expiry of period of 60 days. The petitioner is, therefore, entitled to bail and the learned court below was in error in refusing to enlarge him on bail.

Thus, having regard to the aforesaid submissions and taking into consideration all the facts and circumstances of the case, the petitioner deserves to be enlarged on bail.

In the result, the bail application is allowed and it is directed that petitioner Rajveer son of Bharosi shall be released on bail in FIR No.36/2003 P.S. Sarmathura, District Dholpur registered for offences under Sections 402, 307 and 339 IPC and Section 11 of the Rajasthan Dacoity Affected Areas Act, 1986 on his furnishing a personal bond in the sum of Rs.20,000/- together with one surety in the like amount to the satisfaction of the concerned Court for his appearance before that court on all dates of hearing until conclusion of the trial.

(HARBANS LAL), J.

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